

PUBLIC (SEPARATION)

(194 8) Department.

Miscellaneous

SERIES.

Passed

Supdt.

G.O. NO. 3323

Dated 29 --12--1948

15
29/12/48

P 28
E

[Despatch Abstract.]

Separation of the Judiciary from the Executive - South Kanara district -
Honorary Magistrates - Replacement of - Proposals - Papers recorded

GOVERNMENT OF MADRAS.
PUBLIC (SEPARATION) DEPARTMENT.
Memorandum No. ~~967~~ 48-1, dated the 6th August 1948.
439 ---

Sub: Separation of the Judiciary from the Executive -
Replacement of Honorary Magistrates' Courts.

Collectors of Districts are requested to furnish the information and statistics specified in Annexures I and II hereto, in respect of each court of Honorary Bench Magistrate and Honorary Special Magistrate sitting singly in their respective jurisdiction. The replies should reach the Government on or before the 31st August 1948.

They are also requested to give details of proposals for the constitution of new Bench Courts or the appointment of more Special Magistrates; if any, are pending or are contemplated with full facts and figures.

P.V. BALAKRISHNA IYER,
Secretary to Government in
charge of Separation.

To all Collectors.

S. Kanara
Forwarded/ BY ORDER.

9c / m
u/s
Superintendent.

10/8/48
Launched 11/8/48
10/11/48

ANNEXURE

INFORMATION REQUIRED ABOUT COURTS OF HONORARY MAGISTRATES
SITTING SINGLY AND HONORARY BENCH MAGISTRATES.

1. Centres in which the courts function
2. How many Benches sit at each centre and of what class they are viz. I, II or III Class?
3. How many Special Magistrates are there (Honorary) of each class sitting singly?
4. How many hours a week on an average do they devote for the work (Separately for each category)
5. What classes and types of cases are made over to
 - (i). Honorary Magistrates sitting singly.
 - (ii) Bench Magistrates?
6. Whether the work they do can be assigned to the existing stipendiary magistrates: if not, how many full time salaried officers - and of what class - would be required to replace them at each centre?

NOTE: (i) It should be examined whether it would be possible to enable the existing stipendiary magistrates to take over the work of the corresponding Honorary Magistrates by a slight redistribution of jurisdiction.

(ii) Attention is drawn to Government Memorandum No. 218/47-2, dated 23-3-48, containing the proposed jurisdiction for the magistrates after the introduction of the Scheme: the words "existing magistrates" used above refer to those with the proposed jurisdiction.

7. In what buildings do the Honorary Special Magistrates and Benches hold court now?

(If a rented building is being used, the rent paid should be specified).
8. What establishment do they have?

(It should be explained whether the clerks, attenders and peons are employed full time on the work or whether they are loaned from time to time from other offices; in the latter case, whether they are given other work at other times.)

9. Whether respectable and substantial persons possessing a fair degree of education are readily available in the locality for appointment as Honorary Magistrates?

(Give also the qualifications and status of the existing personnel)

ANNEXURE I (Contd.)

10. Whether the work of the Honorary Magistrates has been sufficiently efficient and satisfactory, so as to justify their continuance.

(NOTE: The answer should be specific in respect of each centre and not general)

ANNEXURE II.

STATISTICS OF WORK DONE BY HONORARY MAGISTRATES AND BENCHES
IN THE DISTRICT OF

Station	Class of Powers	Number of cases disposed of				Number of witnesses examined				Remarks
		1945	1946	1947	Average	1945	1946	1947	Average	
		<u>A. BENCH COURTS</u>								
		<u>HONORARY SPECIAL MAGISTRATES COURTS.</u>								

/True Copy/

Superintendent/

M.D.Dis.5481-48.

South Kanara Dt. Magistrate's office,
Mangalore dated 11-9-1948.

From
S. R. Kaiwar Esq., M.A., ICS.,)
Dt. Magistrate, of South Kanara,)
Mangalore.)
To
The Secretary to Government
in charge of separation,
Public (Separation) Department,
Madras.

*

Sir,

SEPARATION OF THE JUDICIARY FROM THE EXECUTIVE -
Replacement of Honorary Magistrate's courts-
Statistics furnished.

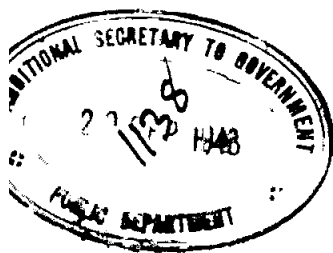
MS

Ref. Govt. Memo.No.789/48 -1 dated 11-8-48.

1 I furnish herewith the information and statistics specified in Annexure I and II to the Government Memo. cited above in respect of each court of Honorary Bench Magistrates and Honorary Special Magistrates referred to.

2. With reference to para 2 of the reference, I submit that there is no proposal at present, for the constitution of new bench courts or the appointment of more special magistrates, under contemplation beyond those already sanctioned and functioning.

Yours faithfully,



[Signature]
For Dt. Magistrate.

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17.9.48

6. The Udupi S.S.M's Court is a pretty heavily worked court. The transfer of the entire work of the Bench court to the stipendiary Magistrate will be unwieldy.

The work can be assigned to the S.S.M. Karkal.

The only existing existing II class Magistrate at Mangalore is already overworked. Hence the work cannot be assigned to him. It is not at all possible to take over the work of the Hon. Magistrate by the stipendiary Magistrate *even by* a slight redistribution of jurisdiction.

This Court requires at least *one* full time stipendiary Magistrate.

May be continued as the stipendiary Magistrate at Mangalore is already overworked. Hence the stipendiary Magistrate cannot be assigned to him. The courts with II Cl. post and Karkal may be necessary to place the Bench Court and the Hon. Spl. Magistrate

The only existing II Cl. Magistrate at Mangalore is already overworked. Hence the stipendiary Magistrate cannot be assigned to him. The courts with II Cl. post and Karkal may be necessary to place the Bench Court and the Hon. Spl. Magistrate

Two Magistrates of Puttur with II Cl. post and Karkal may be necessary to place the Bench Court and the Hon. Spl. Magistrate

A separate Govt. building in the Taluk Office Compound.

In the S.S.M's Court Karkal.

In the Govt. building attached to the Collector's Office.

A separate Govt. building in the Taluk Office compound which is also used by the Cl. Bench.

In the Govt. building attached to the Collector's Office.

In the Govt. building attached to the Taluk Office compound which is also used by the Cl. Bench. — Tk. Office attached to the S.S.M's Office.

8. A full-time clerk and a peon on a scale of Rs. 24-1-35 and a peon on a scale of Rs. 16-1-25 on a temporary basis. *The last sanction expires on 1.1.1969.*

No separate establishment. The S.S.M. is the President and his establishment does the clerical work.

Peon and one Masalchi.

Some establishment as that attached to the I Cl. Bench Court Udupi.

Some establishment as that attached to the I Cl. Bench Court Mangalore.

Some establishment as that of the S.S.M's Bench Court attached to the Bench Court Kasargod tending to the Clerical work of this court.

9. a) Yes.
Sri P. Gopal Nayak
(President) old
P.A. & Land-lord

b) Sri K. Rama Rao
(V.President).
Intermediate and
Land-lord.

c) Dr. D. G. Soans.
IV Form- Notd.
clerk

Yes.
a) Mr. N. S. Adyan-
thaya, Graduate
and Landlord.

b) Mrs. Lily Lewis
Non-Matric and
Land-Lady.

Yes.
a) Sri S. Shankar
Aiyar, B.Sc. (Edin)
President.

b) Sri M. Venkat
tesh Pai, S.S.L.C.
Banker.

c) Lady Member, B.A.
M.L.A. Retd. Ins-
pector of Police.

Two members - Gra-c)
K. Kunhi Raman
Widow Valayan.

Yes.
a) Sri C. Gururajappa
(President) passed
Junior Intermediate
Land-lord.

b) Mr. Mahim Shun-
nad (V.President)
the Bench
Court)

(is also the
President of
the Bench
Court)

Yes.
Sri P. Vyas-
Rao, B.A.,
Notd.
Dt. Municipi-

Member of
Development
Committee
unblt.

Yes.
Janab M.S.
Moosil, B.A.,
Land-lord
Member of
Dt. Irriga-
tion and
Finka De-
velopment
committee
unblt.

Yes.
B. B. Prabha-
kar Rao, M.A.,
Advocate
and Landlord.

d) Mrs. L. M. Fernandes
Intermediate,
wife of Mr. R. Fer-
nandes, Hd. Master,
Hd. High School,
Unipi.

e) Mr. M. A. Rahman
Sahob, III Form,
Land-Lord and
Merchant, Malpo.

f) K. Pakeeran -
Rtd. Forester.

g) Rev. Sanjiva
Pradas Kalyan
Pastor of U.B.M.
Church, Kadugod

h) K. Rama Nayak
(Senior Infer)
Merchant.

i) Three members
Hd. Form Land-
Lords.

10. Yes. Satisfactory and efficient.	Yes. Satisfactory as to justify ~~the~~ their continuance.	Yes.	Yes.
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S. Kanara Dt. Magistrate's Office, }
Mangalore, dated: 11-9-48. }

ANNEXURE II.

Statistics of work done by Honorary Magistrates and Benches in the District of South Kanara.

Name of court.	Station.	Class of powers.	No. of cases disposed of:				No. of witnesses examined:		Remarks
			1945	1946	1947	Average.	1945.	1946. 1947.	

A. Bench Courts.

I Class Bench Court, Udipi.	Udipi.	(II) Class.	490.	411.	741.	544	98	54	116	89.
II Class Bench Court, Karkal.	Karkal.	(III) Class.	146	383	121	217	10	15	10	12
I Class Bench Court, Mangaloro.	Mangaloro.	President & Vice-President - I Class.	5234	3001	5307	3101	803	902	713	308
		Other non-bench: III Class.								909
						394				

R

I Class Bench Court, Kasaragod.	Kasaragod.	-Do-	602	554	636	597	200	324	371	238
						4139				1307

B. Honry. Spl. I Class Magistrates' Courts.

Hon. I Cl. Magto., Udipi.	Udipi.	I Class.	14	15	49	25	113	73	207	151
-Do- Mangaloro.	Mangaloro.	-Do-	16	24	98	46	45	60	32	46
-Do- Kasaragod.	Kasaragod.	-Do-	14	12	1	9	74	71	5	48
-Do- Puttur.	Puttur.	-Do-	16	15	1	10	73	42	5	40
										265

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South Kanara Dt. Magto's Office,
Mangaloro, dated: 11-9-1948.

For District Magistrate.

17.9.48

Special

GOVERNMENT OF MADRAS
Public (Separation) Department

759/48.3 -----

Memorandum No. 961/48-6 dated 24th November 1948

Sub:-- Separation of the Judiciary from the Executive-
Replacement of Honorary Magistrates.

The District Magistrate of *S. Kanara* is requested to
furnish immediately information on the following:--

1. The strength of establishment, ministerial as well as inferior allowed to each of the Bench Courts in the district, and the courts of Honorary Special Magistrates, sitting singly.
2. The time scale of pay in respect of each member of the establishment, both superior and inferior.
3. The dearness allowance and house rent allowance drawn by each member of the staff, both superior and inferior.
4. The expenditure if any incurred by way of rent for accommodation of the Bench Courts.

Note:-- Where part time staff is utilised by the Bench Courts, the exact remuneration to such staff should also be given.

P.T.O.

30/11/48

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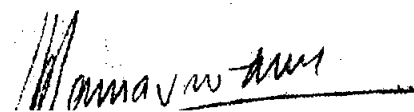
The particulars called for should be furnished
before 30-11-1948

S. BALAKRISHNA AYYAR,
Assistant Secretary to Govt.

To

The District Magistrate,

Forwarded/ By order



Superintendent.

R.B.



7000-48-33.

M. St. Registrar's Office,
Madras, dated 30-11-43.

C. R. Kaiwar Esq., M.A., I.C.S.,
District Magistrate of South Kanara,
MANGALORE.

The Secretary to Government,
Public (Separation) Department,
M A D R A S.

ORIGINATOR OF THE JUDICIARY FROM THE EXECUTIVE - The In-
spector of Honorary Magistrates - Particulars - Interim
report submitted

Ref: Government Memo. No. 989/48-3 Public (Separation)
Department dated 24-11-43.

**

Information called for in the Government Memo cited
above has been obtained from the several Bench Courts in the
District and furnished. I therefore request that I may be granted
time till 10-12-1943 to furnish the information.

Public (Sepu) Dept

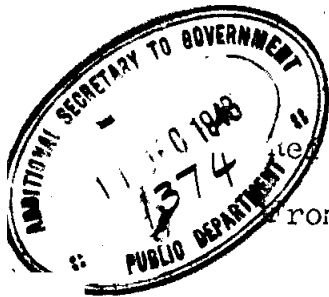
The report may be awaited
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M
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AS
2/12

Yours faithfully,

For M. St. Registrar.

30/11/43



Ref. No. 7800-48-03.

Benaras District Magistrate's Office,
Benaras, dated: 7th Decen. 1948

From

S. R. Kaiwar Esq., MA., ICS.,
District Magistrate of South Benaras.

To

The Secretary to Government,
Public (Separation) Department, Madras.

Sir,

SEPARATION OF THE JUDICIARY FROM THE EXECUTIVE - Replace-
ment of District Magistrates - Particulars furnished.

Ref: Govt. Memo No. 989/48-3, Public (Separation) Department,
dated 24-11-1948.

The information called for is furnished below:-

Name of the Court.	Establishment.	Number.	Time-scale of pay.	Dearness allowance per month	House-rent allowance per month.
First Class Bench Court, Benaras.	D.D.Cs. 2 Peon. 1 Masalji. 1	2 1 1	Rs 45-3-95/- Rs 16-1-25/- Rs 15/- p.m.	Rs 22/- 23/- Rs 18/- 18/- Rs 18/- 18/-	Rs 15/- p.m. Rs 13/- Rs 13/-
First Class Bench Court, Benaras.	Clerk. 30-6-19 49-2 Peon. 20 8-19 11-1	1 1	Rs 24-1-32-2-35 Rs 16-1-25.	Rs 19/- 59-5-2-7 Rs 18/- 47-7-1	
First Class Bench Court, Gidpi.	Clerk. 1 Peon. 1	1 1	Rs 24-1-32-2-35 Rs 16-1-25/-	Rs 19/- 59-5-2-7 Rs 18/- 47-7-1	

2. No expenditure is incurred by way of rent for accommodation of these courts. The courts of the Non-Special I Class Magistrates Benaras, Gidpi and Benaras are held in the same buildings on alternate days and there is no separate staff attached to them. The Court of the Non-Special I Class Magistrate, Puttur is held in the Court of the Stry. Sub-Magistrate, Puttur and the staff of the Stry. Sub-Magistrate attends to the work of the Special Magistrate, also.

Yours faithfully,

For District Magistrate.

12.12.48.

Sub:-- Separation of the Judiciary from the
Executive - Honorary Bench Magistrates -
South Kanara district - Replacement

Ref:-- Government Memorandum No.989/48-1 dated
6-8-1948.
From the Collector of South Kanara L.Dis.
No.5481/48 dated 11-9-1948.

The District Magistrate, South Kanara has
furnished the information and the statistics called
for in the Government Memo cited above.

Benches of Honorary Magistrates in this
district are four in number with an equal number of
Honorary Special Magistrates sitting singly. The
centres where they function and the class of powers
they exercise are as follows:--

- | | | | |
|---------------|-----|-----|--|
| (1) Udipi | ... | ... | (i) One first class Bench Court.
(ii) One Honorary first class Magistrate sitting singly. |
| (2) Karkal | ... | ... | One 'second class Bench Court. |
| (3) Mangalore | ... | .. | (i) One first class Bench Court.
ii) One Honorary first class Magistrate sitting singly. |
| (4) Kasargod | ... | ... | (i) One first class Bench Court.
(ii) One Honorary first class Magistrate sitting singly. |
| (5) Puttur | ... | ... | One Honorary first class Magistrate sitting singly. |

The classification of powers given in Col.3 at p 15 of is incorrect. The correct classification is found at p 9 col 2
for

The Courts of these Magistrates are housed in Government buildings and they have the staff as at 'C' on page 11 C.F. The cases that generally come up before the Bench Courts are those under sections 266 and 323 I.P.C. and section 260 Cr.P.C. as well as under the local and special laws. The Honorary Magistrates sitting singly try cases of the first class under the Indian Penal Code transferred by the District Magistrate as well as cases under the

Essential Supplies (Temporary Powers Act), Arms Act, and Prohibition Act. The time occupied in the trial of these cases are furnished only in respect of the Bench Courts at Udipi, Karkal, and Mangalore and as regards Magistrates sitting singly, information is available only with respect to Udipi and Mangalore centres. In regard to the others, the information is generally given without specifying the actual number of hours of work taken to dispose of the cases.

The four Bench Courts have in all disposed of 4539 cases, and examined 1007 witnesses and the Honorary Magistrates sitting singly have accounted for 90^x cases and 265 witnesses.

The Collector reports that respectable and substantial persons possessing a fair degree of education are readily available in the centres where these Courts function. He is of opinion that the work of these courts has been satisfactory and justify their continuance. The Collector states that there are no proposals, for the constitution of new Bench Courts or the appointment of more special Magistrates, under contemplation.

In the event of the replacement of the Honorary agencies, the Collector states that one second class Magistrate at Udipi, two second class Magistrates at Mangalore, and one first class Magistrate for Puttur and Kasargod would be necessary, while suggesting the retention of the Honorary Special Magistrate at Udipi as a relief to the stipendiary first class Magistrate recommended by him for Puttur and Kasargod. He is of the view that the work in Karkal centre can be assigned to the S.S.M. Karkal.

From the statistics, it would appear that the Mangalore centre is the heaviest of all the centres having accounted for 3307 cases and 808 witnesses; the contribution from the other centres are comparatively very light. The Honorary Special Magistrates sitting

K on p 9 C²

p 9 C²

R on p 12 C¹

P on p 15 C²

I x p 13 C¹

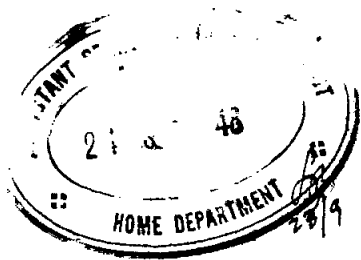
p on 2 of p 7 C¹

b 11 C¹

= on p 11 C¹

p 15 C²

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singly have very light file and the volume of work can conveniently be assigned to the S.^G.Ms. within whose jurisdiction these centres are. It would therefore appear that in the event of the replacement of Honorary agencies in this district, one stipendiary second class Magistrate will be necessary at Mangalore centre. The cost in this behalf will

L.C.M. come to Rs.4054/-

Home may see for remarks.

* Udipi
Karkal
Kasaragod
Puttur

69
23.9.48

23.9.48

In 4* out of the 5 centres at which Hony. agencies function, the work done by them amount to very little. Further, statistics relating to Shipy. mgt^{at these places} reveal that they too have very light work. There would therefore be no difficulty in abolishing the Hony. agencies at these places and adding their work to the Corresp^g. Shipy. S.C. mgt.

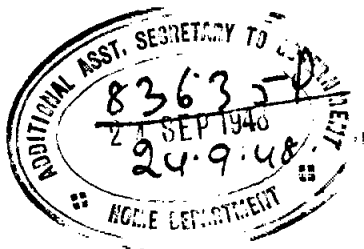
Mangalore is however diff^t. The Shipy. mgt there has heavy work and the work done by Hony. agencies is appreciable. It is seen that men of education and standing are available here: in fact, the Hony. Spl. I cl. mgt is a ret^d. D^r Munir. Hence a Spl^{Hony} I cl. mgt and a II class Bench court may be retained at Mangalore. If suitable men are not available, an addl. Shipy. S.C.M. may be apptd.

Public (Sep) Dept
rom 989/48. 2 dtd
23.9.48

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23.9.48

S. M. S. 1/5 Home

Home Department.



The file deals with the replacement of hony. agencies by stipendiary magistrates in South Kanara district. There are at present four hony. bench courts (3 first class and 1 second class) in the district with an equal number of hony. special magistrates sitting

ingly.

2. In the event of the replacement of the hony.

all, p 11 y

gencies, the D.M., South Kanara suggests that while the work of the Bench Court, Karkal ^{can} be assigned to the S.S.M., Karkal, one second class stipendiary magistrate at Udipi, two second class magistrates at Mangalore and one first class magistrate for both Puttur and Kasargod would be necessary. He also suggests that the hony.spl.magistrate sitting singly at Udipi may be retained.

3. From the statistics of work done in each of these courts the Pub.(Ses) Dept. are of opinion that the hony.courts at Udipi, Karkal, Kasargod and Puttur may be abolished, the few cases now tried by them assigned to the corresponding stipendiary magistrates. They also suggest that in view of the heavy work turned out by the hony courts at Mangalore and in view of the D.M's remarks that men of education and standing are available to work as hony magistrates, a spl.hony.I class magistrate may be retained at Mangalore and that a II class bench court in the place of the existing I class bench court may be created in that place.

not
b2 211-

The Committee for the separation of the judiciary from the executive has recommended that benches should not be invested with first class powers and it had no objection to the appointment of hony.spl.first class magistrates.

not put up

This deptt. may agree with the views of the Pub.(Ses) Deptt. at S above and the file returned to that deptt.

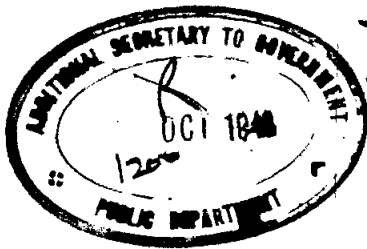
8/10/48
30/10/48
In regard to Udipi, though the hours of work involved in the first class Bench court are not numerous, the no. of cases disposed of is not negligible especially in 1947 (p.15 cf.). If the hony. agency is abolished, the Collector is likely to come up later with proposals for an S.S.M.'s court

Thro' D.

Encl
T. 10/48

1948

(A83635P)



here. However, Pub (Sep.) depts' suggestions may be accepted for the time being.

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11.10.48

Home No 83635P/48-1

6.10.48

Public (Sep) Dept

The Home Dept have accepted the views of this Dept at A on p 3 above.

This may lie over pending decision on the manifesto relating to the general question as to the Replacement of High Bench Magistrates by District Magistrates.

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13.10.48

h 17 c
h 19 c

[Issued as memo 989/48.3 dated 24.11.48]
[from the D.M. South Kanara Rec. 7800-48-E3 dated 30.11.48]

h 21 c

[from the D.M. South Kanara Rec 27800/48 E.3 dated 7-12-1948]

h 21 c

h 17 c

Please see the letter from the District Magistrate of South Kanara. He has furnished the information called for in Government memo 989/48.3 dated 24.11.48. Actual savings, if any, on account of the ~~various~~ abolition of the various ^{agencies} agencies in the District will be worked out after the Cabinet Committee takes final decisions on the general question. This may lie over till then.

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10.12.48

Handwritten signature/initials
10.12.48

There are many other things
- not only of course, but also of course
in the world of information, and in the
- world of information, and in the
- world of information, and in the
- world of information, and in the
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There are many other things
- not only of course, but also of course
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Public (Separation) Department

In pursuance of the decision of the Cabinet Committee at its meeting on 3-8-1948, namely, that the question of retention of the Honorary Agencies or the substitution thereof by the stipendiary system be examined, Collectors of districts and the Chief Presidency Magistrate were asked to furnish statistical and other particulars in respect of the Honorary Agencies. Reports from these respective officers were received and proposals for each district were framed after scrutiny and examination of the statistics and the information furnished by these officers. The proposals were agreed to by the Council and were ready for consideration by the Cabinet Committee.

2 No 1393

In another [✓] file, the H.Ms. of the Cabinet Committee have minuted that no final decisions have been taken on the main scheme and that the Cabinet Committee may be wound up. As no final orders have been passed on the main scheme and as the proposals connected with the Honorary Agencies are framed with reference to the main scheme of Separation of the Judiciary from the Executive, no further action is necessary in this file. The papers may therefore be recorded in a miscellaneous G.O. for future reference.

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29/12/48
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28/12/48

29/12/48

G.O.Ms. No. 3323 dated 29-12-1948

Subject:--Separation of the Judiciary from the Executive - *South Kanara.*
district - Honorary Magistrates - Replacement of - Proposals -